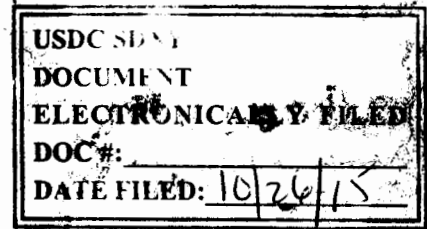


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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UNITED STATES OF AMERICA,

-against-

ALEJO ANTONIO POLANCO-PADILLA,

Defendant.

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**ORDER DENYING SENTENCE
REDUCTION**

05 Cr. 185-04 (AKH)

----- X

ALVIN K. HELLERSTEIN, U.S.D.J.:

Alejo Antonio Polanco-Padilla has moved for a reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2). For the reasons stated below, the motion is denied.

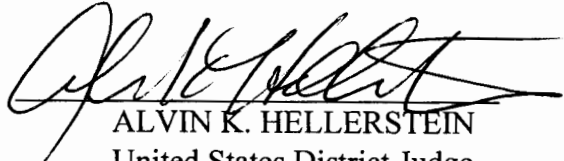
On October 10, 2013, Defendant Polanco-Padilla pled guilty before a U.S. Magistrate Judge to Conspiracy to Commit Hobbs Act Robbery, in violation of 18 U.S.C. § 1951. I reviewed the transcript of his allocution and accepted his plea on October 11, 2013. He appeared before me for sentencing on September 11, 2014. The Guideline range for a violation of 18 U.S.C. § 1951 is found in USSG §2B3.1. Because a victim was killed during the robbery, pursuant to § 2B3.1(c)(1), the base offense level was the base offense level applicable to first degree murder, as set forth in § 2A1.1. I sentenced the defendant to 240 months custody, the statutorily imposed maximum sentence for 18 U.S.C. § 1951, as required by U.S.S.G. §5G1.1.

Polanco-Padilla moves for a reduction of sentence based on Amendment 782 to USSG § 1B1.10, which changed the threshold amounts in the drug quantity tables at USSG §§2D1.1 and 2D1.11, so that many, but not all, drug quantities will have a base offense level that is two levels lower than before the amendment. The amendment applies retroactively. Although

the underlying crime involved narcotics, the drug quantity tables in USSG §§2D1.1 and 2D1.11 were not employed in determining the Guidelines range for Polanco-Padilla's sentence for the reasons set forth above. Polanco-Padilla is therefore ineligible for a reduction under 18 U.S.C. § 3582(c)(2). The motion is denied. The clerk shall terminate the motion marked Docket No. 11.

SO ORDERED.

Dated: October 22, 2015
 New York, New York


ALVIN K. HELLERSTEIN
United States District Judge